

Schary, Claire

From: Psyk, Christine
Sent: Thursday, August 15, 2013 11:41 AM
To: Werntz, James; Lidgard, Michael; Schary, Claire
Cc: Opalski, Dan; Stewart, William C.; Croxton, Dave
Subject: RE: Meet to discuss permitting issues associated with pollutant trading BMPs

Jim, Claire, Susan Poulosom and I will be in Boise next week for the WQ Trading meeting with Willamette Partnership and Freshwater Trust and we plan to stay for the Open House. Good questions. Not sure we have answers to them all, but they are worthy of discussion/resolution. Not sure that there is/will be a satisfactory, CWA legally supportable answer on some of these. The issue about whether the wetland(s) would need a permit is the same issue that came up in the City of Boise offset. You should talk to Mark Ryan how that was resolved. Water Quality Trading does not waive any CWA requirements per se.

DEQ is participating in the WQ Trading meetings led by the Willamette Partnership and Freshwater Trust. Michael McIntyre and Marti Bridges have been involved in those meetings. Those meetings include participation from the other states (WA and OR). Aim is to get a regional framework/guidance on trading.

Christine Psyk

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From: Werntz, James
Sent: Thursday, August 15, 2013 11:17 AM
To: Lidgard, Michael; Schary, Claire
Cc: Psyk, Christine; Opalski, Dan; Stewart, William C.; Croxton, Dave
Subject: FW: Meet to discuss permitting issues associated with pollutant trading BMPs

Mike and Claire: Please read the message from Lance Halloway (IDEQ) below. It gives a good flavor of some of the NPDES issues associated with the trading/offset discussions that the Integrated Watershed Solutions group is having. Overall, it is a really good dialogue for us to participate in, especially since some folks are quick to portray EPA as being an obstacle to the ideas being explored for cleaning up some of these irrigation drains. We are going to be participating in these discussions (Bill Stewart is our point person) as much as possible, and we'll need your support, particularly on any NPDES permitting questions that may arise.

Some of this discussion may be ongoing before or during next week's Open House on WQ Trading at DEQ (FWT and WP project). Jim

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From: Stewart, William C.
Sent: Thursday, August 15, 2013 11:44 AM
To: Werntz, James
Cc: Ryan, Mark; Croxton, Dave; Woodruff, Leigh
Subject: FW: Meet to discuss permitting issues associated with pollutant trading BMPs

FYI

From: Lance.Holloway@deq.idaho.gov [<mailto:Lance.Holloway@deq.idaho.gov>]

Sent: Thursday, August 15, 2013 11:38 AM

To: Pete.Wagner@deq.idaho.gov; Barry.Burnell@deq.idaho.gov; Stewart, William C.; jeff.peppersack@idwr.idaho.gov; Greg.J.Martinez@usace.army.mil

Cc: Marti.Bridges@deq.idaho.gov; Michael.Mcintyre@deq.idaho.gov

Subject: Meet to discuss permitting issues associated with pollutant trading BMPs

Hello,

Due to the development of the Total Phosphorus TMDL for the Lower Boise River and the potentially low waste load allocations for municipalities there is currently a high amount of interest in development of marketable point source to nonpoint source pollutant trading BMP projects in the watershed to create credits. That said currently Hal Anderson and Dave Tuthill and their Integrated Watershed Solutions group are going through the process of developing a wetland as a demonstration project for trading. Along with their project comes all the bureaucratic hoops with respect to permitting such as; ACOE 404, water right transfers, etc. They, like many of the landowners before them, are finding the process difficult even though they were on the regulatory side for many years but apparently didn't realize or have forgotten all that it takes to get permits in place to do BMP projects. Unfortunately, whether they realize it or not, at public meetings they are creating a very negative portrayal of the process, the permitting agencies, and one that the process is unnecessarily difficult for groups trying to improve water quality. Which really isn't the case, obtaining proper permits is what it is.

What is a little different is that they are a business both not for profit and for profit trying to find a niche and develop credits on private lands that aren't theirs. For that reason it's probably going to take some extra hoops to get water rights and 404 permits in place. Also, in some cases, an NPDES permit may be required if a chemical amendment is used. DEQ would like to have an interagency meeting to discuss what Hal and his group are going through and try to get all the permit folks feedback on what has currently happened, what actions are still needed for their project, and what opportunities are there for improvement in communication and in the permitting process for future trading projects. From this discussion we will have a better understanding of the permitting process and can relay and respond correct information back to Hal and to the stakeholder groups.

Current questions on the table to be thinking about:

- Hal is stating that he was told he needed an NPDES permit by EPA. We have feedback from EPA that their project didn't need an NPDES permit, but there may be instances that similar projects may need a NPDES permit, what are those instances?
- Hal has said that he needs a new water right to transfer from one use to another. Who owns the water right, the landowner or Hals group? What are examples of water right transfers that may occur in these out of the box trades?
- Will they need a 404 permit for their constructed wetland?
- Will they need coverage under the CGP which includes developing a SWPP?
- Will irrigation districts have to go through the same process if they plan to build wetlands within their delivery/drain system to create trades?
- Will a farmer have to do the same?

Next week there are several trading meetings taking place. There is a water quality trading open house on Thursday at 4 at DEQ State Office. Are you or a designee from your agency available to get together at 1:30 pm here at DEQ prior to the open house to discuss these issues and prepare to address them at the open house? If this time does not work for everyone's schedule I will send a Doodle poll to arrange a discussion the following week.

Thanks, Lance

Lance Holloway

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